

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DUKHAN MUMIN,

Petitioner,

vs.

SCOTT FRAKES,

Respondent.

4:16CV3033

**MEMORANDUM
AND ORDER**

This matter is before the court on the Notice of Appeal ([filing no. 87](#)) filed by Petitioner on February 22, 2019. Petitioner appeals from the court's Memorandum and Order dated February 5, 2019 ([filing no. 86](#)), in which the court summarily denied his "Request for Relief from Judgment as an Independent Action Pursuant to [Fed. R. Civ. Pro. Rule 60\(d\)\(1\)](#)" which the court construed as a motion. Also before the court is a memorandum from the Clerk of the Court requesting a ruling as to Petitioner's authorization to proceed in forma pauperis on appeal. ([Filing No. 88.](#))

As set forth in [Federal Rule of Appellate Procedure 24\(a\)\(3\)](#):

(a) Leave to Proceed in Forma Pauperis . . .

(3) Prior Approval. A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless:

(A) the district court--before or after the notice of appeal is filed--certifies that the appeal is not taken in good faith or finds that the party is not otherwise

entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding

The court finds that because Petitioner proceeded IFP in the district court, he may now proceed on appeal in forma pauperis without further authorization.

IT IS THEREFORE ORDERED that Petitioner may proceed on appeal in forma pauperis.

Dated this 5th day of March, 2019.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge